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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/920,676	08/02/2001	Dawn Marie Schwarzkopf	501295	6754

23626 7590 02/05/2002

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EXAMINER

SUHOL, DMITRY

ART UNIT	PAPER NUMBER
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3712

DATE MAILED: 02/05/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/920,676

Applicant(s)

SCHWARZKOPF, DAWN MARIE

Examiner

Dmitry Suhol

Art Unit

3712

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: .

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 2-4 and 16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 2, the structural limitations encompassed by the phrase "wherein the printed indicia on the alphabet keys of the keyboard is positioned in a first quadrant of the key" can't be determined, rendering the claim indefinite. It appears as if the applicant is trying to limit the claim with the use of non-claimed subject matter since neither the keyboard nor the keys of the keyboard are being claimed. The structural limitations of the phrase "a fourth quadrant" can't be determined, rendering the claim indefinite.

Regarding claim 3, the structural limitations encompassed by the phrase "wherein the printed indicia on the alphabet keys of the keyboard is positioned in a first quadrant of the key" can't be determined, rendering the claim indefinite. It appears as if the applicant is trying to limit the claim with the use of non-claimed subject matter since neither the keyboard nor the keys of the keyboard are being claimed. The structural limitations of the phrase "a second quadrant" can't be determined, rendering the claim indefinite.

Regarding claim 4, the structural limitations encompassed by the phrase "wherein the printed indicia on the alphabet keys of the keyboard is positioned in a first quadrant of the key" can't be determined, rendering the claim indefinite. It appears as if the applicant is trying to limit the claim with the use of non-claimed subject matter since neither the keyboard nor the keys of the keyboard are being claimed. The structural limitations of the phrase "a third quadrant" can't be determined, rendering the claim indefinite.

Regarding claim 16, the structural features encompassed by the phrase "adhesively applied on individual keys" can't be determined, rendering the claim indefinite.

In view of the examples above, the applicant is required to carefully review all of the claims in order to correct those having the same defects but not specifically pointed to.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

Claims 11, 14-16, 18, 20-23 are rejected under 35 U.S.C. 102(e) as being anticipated by Nichol. Nichol discloses all the elements of the claims including, a computer keyboard having a plurality of individual keys as required by claims 11, 19-20, 22 (pictures in Advertisement in Educational Resources, Fall 2000, page 26, Reading Readiness Keyboard Cover), a portion of individual keys including a glyph of an upper-case letter and a glyph of an associated lower-case letter as required by claims 11, 18, 20 (pictures in Advertisement in Educational Resources, Fall 2000, page 26, Reading Readiness Keyboard Cover), a glyph of an upper case letter and a lower-case letter are positioned in a vertical relationship to one another as required by claim 14 (pictures in Advertisement in Educational Resources, Fall 2000, page 26, Reading Readiness Keyboard Cover), a glyph of an upper-case letter positioned on keys and a glyph of a lower-case letter positioned on a layer that is overlaid on keys as required by claims 15, 19, 22-23 (pictures in Advertisement in Educational Resources, Fall 2000, page 26, Reading Readiness Keyboard Cover) where the upper-case letters are located under the layer that is overlaid on the keys as well as on a top surface of the layer, a layer that is adhesively applied on individual keys as required by claims 16 and 21 (col. 7, lines 39-42 and line 46).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-7, 10, 17, 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nichol in view of Nopper. Nichol discloses a teaching apparatus containing most of the elements of the claims including a keyboard overlay having a plurality of individual key-accommodating structures as required by claims 1 and 17 (fig.1), a portion of the upper surface of a key accommodating structures having a lower-case letter positioned thereon as required by claims 1 and 17 (pictures in Advertisement in Educational Resources, Fall 2000, page 26, Reading Readiness Keyboard Cover), and lower-case letters are rendered in a first font style as required by claim 5 (pictures in Advertisement in Educational Resources, Fall 2000, page 26, Reading Readiness Keyboard Cover).

Although Nichol discloses most of the elements of the claims, as stated above, the reference fails to teach key-accommodating structures having a at least a transparent upper surface as required by claims 1, 17 and 19, a lower-case letter positioned in a fourth quadrant as required by claim 2, a lower-case letter positioned in a second quadrant as required by claim 3, a lower-case letter positioned in a third quadrant as required by claim 4, a first font style being D'Nealian as required by claim 6, a first font style being Zaner Bloser as required by claim 7 and a keyboard overlay adapted to cover a whole of the keyboard as required by claim 10. However, Nopper teaches a transparent upper surface and a keyboard overlay adapted to cover a whole of a keyboard in a device like that of Nichol (col. 3, lines 26-29 and abs. lines 4-9

respectively). Therefore it would have been obvious to one having ordinary skill in the art, at the time of the claimed invention, in view of Nopper, to manufacture the device of Nichol with a transparent upper surface and a keyboard overlay adapted to cover a whole of a keyboard for the purpose of being able to view the indicia on a keyboard and protecting the entire keyboard from damage. It would have been further obvious to position a lower-case letter, printed in a D'Nealian or Zaner Bloser font style, in a second, third or fourth quadrant for the purpose of interest to the consumer. The positioning and the font style of the lower-case letters are an obvious choice of design in as much as the applicant discloses no advantage or critical need for them (see applicants specification page 14, paragraph 0051, lines 12-14).

Claims 8-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nichol and Nopper as stated above, in view of Tsai. Although Nichol, as modified by Nopper discloses most of the elements of the claims, the reference fails to teach a lower-case letter positioned on an under surface of a transparent upper surface of a individual key-accommodating structure as required by claim 8, a lower-case letter positioned between a transparent protective layer attached to an under surface of a transparent upper surface of a individual key-accommodating structure as required by claim 9. However, Tsai teaches a letter positioned on an under surface of a transparent upper surface of a individual key-accommodating structure and a transparent protective layer attached to the upper surface of a individual key-accommodating structure, in a key cover device (col. 2, lines 17-29) where it is commonly known that acrylate resin is

transparent. Therefore it would have been obvious to manufacture the device of Nichol, as modified by Nopper, with all the elements, as stated above, for the purpose of providing a transparent protective cover for key elements and their marking indicia.

Claims 12-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nichol. Although Nichol discloses most of the elements of the claims, the reference fails to teach a glyph of an upper-case letter and a glyph of a lower-case letter are positioned in a horizontal relationship to one another in a plane of keys as required by claim 12 and a glyph of an upper-case letter and a glyph of a lower-case letter are positioned in a diagonal relationship to one another in a plane of keys as required by claim 13. However, it would have been obvious to manufacture the device of Nichol with a glyph structure as stated above for the purpose of interest to the consumer. The positioning of the lower-case letters is an obvious choice of design in as much as the applicant discloses no advantage or critical need for them (page 11, paragraph 0044, lines 22-24).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dmitry Suhol whose telephone number is 703-305-0085. The examiner can normally be reached on Mon - Friday 9am-5:30pm.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris Banks can be reached on 703-308-1745. The fax phone numbers

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for the organization where this application or proceeding is assigned are 703-872-9302 for regular communications and 703-872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

ds
January 30, 2002


DERRISE BANKS
PRIMARY EXAMINER
SPE 3712